

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,        )  
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                                      )  
Plaintiff,                        )  
                                      )  
                                      )  
vs.                                )        Case No. S1-4:06CR770 RWS  
                                      )  
                                      )  
ANDREW CHARLES KAIN,            )  
                                      )  
                                      )  
Defendant.                        )

**ORDER**

This matter is before me on defendant Andre Charles Kain's objections to the Second Supplemental Report and Recommendation of the Magistrate Judge.

I have conducted a *de novo* review of the briefs filed by the parties and the hearings conducted by United States Magistrate Judge Mary Ann L. Medler.<sup>1</sup>

On February 12, 2007, United States Magistrate Judge Mary Ann L. Medler held an evidentiary hearing on defendant's motion to suppress evidence and motion to suppress statements. Judge Medler issued her Report and Recommendation on February 23, 2007. On May 18, 2007 defendant moved to reopen the evidence on his motion to suppress in light of allegedly newly discovered evidence. On August 15, 2007 Judge Medler held a supplemental evidentiary hearing. On September 7, 2007

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<sup>1</sup> I conducted a *de novo* review of the hearings in preparation for my October 10, 2007 Order in this case. No additional evidence was presented at the evidentiary hearing scheduled as a result of these motions filed by the defendant.

Judge Medler issued her supplemental Report and Recommendation that the defendant's motion be denied. On September 18, 2007, defendant filed his objections to the Supplemental Report and Recommendation. On October 10, 2007 I entered my Order adopting Judge Medler's Report and Recommendation.

On November 1, 2007 Mr. Kain was charged in a Superseding Indictment with one count of Possession with Intent to Distribute Marijuana within one thousand feet of a school and one count of possession of child pornography. Kain filed the following motions: Motion to Suppress Evidence; Motion to Suppress Statements; Motion To Quash Search Warrant and Motion to Suppress Evidence; Motion to Dismiss Count II of the Superseding Indictment; Motion to Sever and Motion for a Bill of Particulars. The United States Attorney filed a written response to Kain's motions.

Judge Medler scheduled an evidentiary hearing for December 5, 2007. Both Kain and the government elected to rely on the evidence presented at the earlier evidentiary hearings and submitted the motions to Judge Medler on their written submissions.

On December 11, 2007 Judge Medler issued her Second Supplemental Report and Recommendation of the United States Magistrate Judge on December 26, 2007, Kain filed his objection to the Second Supplemental Report and Recommendation. The government filed its response to Kain's objections on January 7, 2008.

After fully reviewing the objections to Judge Medler's Second Supplemental

Report and Recommendation,

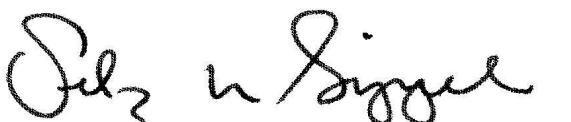
Accordingly,

**IT IS HEREBY ORDERED** that the Second Supplemental Report and Recommendation of the United States Magistrate Judge Mary Ann L. Medler [#75] filed on December 11, 2007 is **SUSTAINED, ADOPTED, and INCORPORATED** herein.

Upon review of Judge Medler's Second Supplemental Report and Recommendation, the evidentiary hearings, as well as the relevant case law, I concur with Judge Medler's findings and recommendations.

**IT IS FURTHER ORDERED** that defendant Andrew Charles Kain's Motion to Suppress Evidence [#70]; Motion to Suppress Statements[#69]; Motion To Quash Search Warrant and Motion to Suppress Evidence [#68]; Motion to Dismiss Count II of the Superseding Indictment [#67]; Motion to Sever [#66] and Motion for a Bill of Particulars [#65] are denied.

**IT IS FINALLY ORDERED** that the jury trial of this case remains set for Monday, February 4, 2008 at 9:00 a.m.

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 28th day of January, 2008.